

ENTERED

March 11, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

VS.

43.412 ACRES OF LAND, more or less, in § CIVIL ACTION NO. 7:20-cv-00239
HIDALGO COUNTY, TEXAS; HIDALGO §
COUNTY IRRIGATION DISTRICT §
NO. 2; CITY OF PHARR, TEXAS; and §
UNKNOWN LANDOWNERS, §

Defendants. §

ORDER

The Court now considers the parties' "Joint Motion to Extend Scheduling Order Deadlines."¹ This Court entered its initial scheduling order on November 3, 2020.² On January 7, 2021, the United States requested the Court move the January 10th deadline to identify all interested parties.³ The Court granted the request and moved the deadline to March 11th.⁴ Now, the parties point to the President's proclamation directing a pause on border taking and construction until March 21st.⁵ In light of the proclamation, the parties request the Court extend *all nine* of the remaining deadlines (which stretch into February 2022) for ninety more days.⁶

Contrary to the parties' suggestion that Federal Rule of Civil Procedure 6(b) applies,⁷ Rule 16(b)(4) requires good cause to modify a scheduling order. "To show good cause, the party

¹ Dkt. No. 27.² Dkt. No. 19.³ Dkt. No. 25.⁴ Dkt. No. 26.⁵ Dkt. No. 27 at 3–4, ¶¶ 11–12; *see* Proclamation No. 10142, 86 Fed. Reg. 7,225, 2021 WL 197402 (Jan. 20, 2021).⁶ *Id.* at 4–5, ¶¶ 13–14.⁷ Dkt. No. 27 at 1.

seeking to modify the scheduling order has the burden of showing ‘that the deadlines cannot reasonably be met despite the diligence of the party needing the extension.’”⁸

Here, the most proximate deadline is the already-extended March 11, 2021, “deadline to add, substitute, disclaim, or dismiss interested parties.”⁹ The parties argue that, because they paused “negotiations of property interests and completion of design plans . . . pending the entry of plan [sic] for the redirection of funds” pursuant to the presidential proclamation,¹⁰ the parties need an extension of the March 11th deadline “to negotiate the property interests in land and additional interests in water necessary for the installation of border infrastructure within Carlson Lake, and [to] file all necessary amended pleadings by the [applicable] deadline.”¹¹ The Court finds good cause in the need for an extension of this deadline because the parties paused their progress on identifying all relevant interests while awaiting a new border plan.¹² However, the Court does not find good cause to extend the next deadline, specifically the June 25, 2021 deadline for all parties to designate experts and provide expert reports,¹³ or any of the following deadlines because the parties have not demonstrated that the deadlines cannot reasonably be met despite their diligence.¹⁴ Other than the fact of the presidential proclamation—which requires a new border plan be developed within only 13 days of the parties’ motion—the parties offer no justification for a 90-day extension of all remaining deadlines in this case.¹⁵

⁸ *Squyres v. Heico Cos., L.L.C.*, 782 F.3d 224, 237 (5th Cir. 2015) (quoting *Filgueira v. U.S. Bank Nat’l Ass’n*, 734 F.3d 420, 422 (5th Cir. 2013) (per curiam)).

⁹ Dkt. No. 26 at 1–2.

¹⁰ Dkt. No. 27 at 4, ¶ 12.

¹¹ *Id.* at 3, ¶ 10.

¹² *Id.* at 4, ¶ 12.

¹³ *See* Dkt. No. 19 at 2.

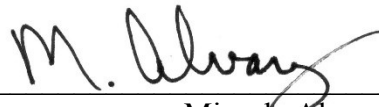
¹⁴ *See supra* note 8.

¹⁵ *See* Dkt. No. 27.

Accordingly, the Court **GRANTS IN PART** the parties' joint motion for an extension.¹⁶ The "[d]eadline to file all documentation adding, substituting, disclaiming, or dismissing interested parties" is extended from March 11th to **April 23, 2021**. The Court **DENIES** the remainder of the joint motion. The Court's November 3, 2020 scheduling order is otherwise unmodified.¹⁷

IT IS SO ORDERED.

DONE at McAllen, Texas, this 11th day of March 2021.

A handwritten signature in black ink, appearing to read "M. Alvarez", is written over a horizontal line.

Micaela Alvarez
United States District Judge

¹⁶ Dkt. No. 27.

¹⁷ Dkt. No. 19.